

REMARKS/ARGUMENTS

Claims 1-3, 6, 7, 9-21, 44-46, 83-85, and 88-97 are presented for the Examiner's consideration. Claims 4, 5, 8, 22, 26, 47, 53-82, 86, and 87 were previously withdrawn and claims 27-43 and 48-52 were previously canceled. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

Rejections Under 35 U.S.C. § 103(a)

Mizoguchi in view of Forde does not teach or suggest each and every element of the claimed invention.

By way of the Office Action mailed October 8, 2009, the Examiner rejects claims 1-3, 6-7, 9-21, 44-46, 83-85, and 88-97 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over JP02166375 to Mizoguchi (hereinafter "Mizoguchi") in view of WO 89/06142 to Forde (hereinafter "Forde"). This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143. The application of the "teaching, suggestion, or motivation" (TSM) test is not "rigid." However, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) (emphasis added).

Mizoguchi is directed to a cold heat agent. Independent claim 1 of the present application is directed to an absorbent composition including, *inter alia*, a water-swellaable, water-insoluble absorbent material and a cooling compound intermixed with the absorbent material, wherein the cooling compound has an endothermic effect, and wherein the

absorbent composition exhibits certain specific values. First, Mizoguchi does not disclose, teach, or suggest an absorbent composition or an absorbent material of any kind, much less a water-swellaable, water-insoluble absorbent material. There is no absorbent material disclosed, taught, or suggested in Mizoguchi. As a result, Mizoguchi also cannot disclose, teach, or suggest a cooling compound intermixed with an absorbent material. Mizoguchi simply discloses two chemicals that, when mixed, produce a cooling effect.

Forde does not correct the deficiencies of Mizoguchi. Forde is directed to a pH-controlling absorbent product. Forde also does not disclose, teach, or suggest a water-swellaable, water-insoluble absorbent material, or a cooling compound, and therefore cannot disclose, teach, or suggest a cooling compound intermixed with such an absorbent material. As a result, combining the two references does not teach or suggest all the claim limitations.

In addition, it is unclear why one would combine these references. The Examiner states that one would combine them to reduce the amount and effect of undesirable ammonia in the garment. But Forde already does this alone, and Mizoguchi would add nothing to that effect. As a result, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings.

Finally, there appears to be no reasonable expectation of success in combining the references, and the Examiner makes no case for such. There is no evidence that combining the references would meet the performance requirements of claim 1. Mizoguchi does not disclose, teach, or suggest the subject matter of claim 1 of the present application.

Further, the Examiner states that "it would have been obvious to one of ordinary skill in the art to modify the acidic absorbent (i.e., absorbent capacity) and/or non-acidic or basic material (i.e., cooling effect), both of which effect the pH and/or endothermic effect." First, neither reference discloses basic material, and non-acidic is not the same as basic. Second, it appears that there is a mistaken impression that basic material is the equivalent of a cooling compound; it is not.

Likewise, claim 17 is directed to an absorbent composition including a water-swellaable, water-insoluble acidic absorbent material; and a cooling compound intermixed

with the absorbent material, wherein the cooling compound has an endothermic effect and is a basic compound capable of neutralizing the acidic absorbent material, wherein the absorbent composition exhibits an absorbent capacity of at least 10 grams of 0.9 wt% NaCl saline per gram of the absorbent composition and a cooling effect of at least a 2°C reduction in temperature of at least a portion of the absorbent composition. Contrary to the Examiner's claim, neither Mizoguchi nor Forde disclose, teach, or suggest an absorbent composition including a cooling compound, wherein the cooling compound has an endothermic effect and is a basic compound capable of neutralizing the acidic absorbent material, wherein the absorbent composition exhibits an absorbent capacity of at least 10 grams of 0.9 wt% NaCl saline per gram of the absorbent composition and a cooling effect of at least a 2°C reduction in temperature of at least a portion of the absorbent composition.

Claim 44 is directed to a method for producing an absorbent composition capable of exhibiting a cooling effect, the method including selecting a water-swellaable, water-insoluble absorbent material; selecting a cooling compound having an endothermic effect; and intermixing the absorbent material and the cooling compound to form the absorbent composition such that the absorbent composition exhibits an absorbent capacity of at least 10 grams of 0.9 wt% NaCl saline per gram of the absorbent composition and a cooling effect of at least a 2°C reduction in temperature of at least a portion of the absorbent composition. Contrary to the Examiner's claim, neither Mizoguchi nor Forde disclose, teach, or suggest combining the absorbent material and the cooling compound to form the absorbent composition such that the absorbent composition exhibits an absorbent capacity of at least 10 grams of 0.9 wt% NaCl saline per gram of the absorbent composition and a cooling effect of at least a 2°C reduction in temperature of at least a portion of the absorbent composition.

Claim 83 is directed to an absorbent composition including a superabsorbent material; and a sufficient amount of cooling compound intermixed with the absorbent material such that the absorbent composition is adapted to provide a cooling effect in at least a portion of the composition while absorbing aqueous liquid. Contrary to the Examiner's claim, neither Mizoguchi nor Forde disclose, teach, or suggest any superabsorbent material, or a sufficient amount of cooling compound such that the

absorbent composition is adapted to provide a cooling effect in at least a portion of the composition while absorbing aqueous liquid.

In addition, claims 2, 3, 6, 7, 9-16, 18-21, 45, 46, 84, 85, and 88-97 are dependent claims that depend from an allowable independent claim, and are thus allowable themselves for the reasons stated above with respect to independent claims 1, 17, 44, and 83.

In view of the remarks set forth in this section, Applicant respectfully submits that claims 1-3, 6, 7, 9-21, 44-46, 83-85, and 88-97 are in condition for allowance and respectfully requests favorable consideration and the timely allowance of those claims.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

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Respectfully submitted,

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